

ORDINANCE NO. _____, SERIES 2008

AN ORDINANCE OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AUTHORIZING THE ISSUANCE OF ITS HEALTH FACILITIES REVENUE BONDS, SERIES 2008 (JEWISH HOSPITAL & ST. MARY'S HEALTHCARE, INC. PROJECT) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$380,000,000, THE PROCEEDS OF WHICH SHALL BE LOANED TO JEWISH HOSPITAL & ST. MARY'S HEALTHCARE, INC. (THE "CORPORATION") TO (1) FINANCE THE CONSTRUCTION AND EQUIPPING OF A NEW POWER PLANT FACILITY AT STS. MARY & ELIZABETH HOSPITAL, RENOVATIONS AND EQUIPPING OF THE MAIN JEWISH HOSPITAL & ST. MARY'S HEALTHCARE MEDICAL CAMPUS, FRAZIER REHAB INSTITUTE, STS. MARY & ELIZABETH HOSPITAL, OUR LADY OF PEACE AND JEWISH HOSPITAL MEDICAL CENTER SOUTHWEST, AND REIMBURSEMENT FOR PAST CAPITAL EXPENDITURES AT ANY OR ALL OF THE ABOVE FACILITIES, (2) REFUND ALL OF THE OUTSTANDING SERIES 2002 BONDS AND SERIES 2004 BONDS THAT WERE ISSUED FOR THE BENEFIT OF THE CORPORATION, (3) PAY CERTAIN AMOUNTS IN CONNECTION WITH THE TERMINATION OR MODIFICATION OF ONE OR MORE INTEREST RATE EXCHANGE AGREEMENTS, AND (4) PAY CERTAIN COSTS OF ISSUANCE; AUTHORIZING A BOND INDENTURE, FORM OF BOND, LOAN AGREEMENT, BOND PURCHASE AGREEMENT, TAX EXEMPTION AGREEMENT, PRELIMINARY OFFICIAL STATEMENT, OFFICIAL STATEMENT, FORM OF ESCROW AGREEMENT AND OTHER RELATED DOCUMENTS; AND AUTHORIZING OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS.

Sponsored By: Councilman David Tandy

WHEREAS, the Louisville/Jefferson County Metro Government (the "Issuer") is a political subdivision of the Commonwealth of Kentucky (the "Commonwealth") organized and existing under the Constitution and laws of the Commonwealth and as such is authorized under the Industrial Buildings for Cities and Counties Act, Sections 103.200 to 103.285 of the Kentucky Revised Statutes, as amended (the "Act"), to issue its industrial building revenue bonds and lend the proceeds thereof to any person to finance the costs of acquiring, constructing and equipping an "industrial building" (as defined in the Act), including specifically any buildings, structures and facilities, including the site thereof and machinery, equipment, and furnishings suitable for use as health care or related facilities, including without limitation, hospitals, clinics, nursing homes, research facilities, extended or long-term care facilities, including housing for the aged or the infirm and all buildings, structures and facilities deemed necessary or useful in connection therewith, in order to accomplish thereby the public purposes of promoting the economic development of the Commonwealth, relieving conditions of

unemployment and encouraging the increase of industry therein, provided that such bonds are payable solely from the loan repayments and other revenues derived in respect of the loan and do not constitute an indebtedness of the Issuer within the meaning of the Constitution and laws of the Commonwealth; and

WHEREAS, Jewish Hospital & St. Mary's HealthCare, Inc. (the "Corporation"), a Kentucky nonstock, nonprofit corporation, has applied to the Issuer for the issuance of the Issuer's industrial building revenue bonds pursuant to the Act and the loan of the proceeds thereof to the Corporation, on behalf of itself, Jewish Hospital HealthCare Services, Inc., The Physician Group at Jewish Hospital & St. Mary's HealthCare, Inc., JH Properties, Inc., Jewish Hospital HealthCare Network, Regional Service Center, LLC, Jewish Hospital Healthcare Services, Inc., and The Physician Group at Jewish Hospital and St. Mary's Healthcare, Inc. to be used to finance [i] all or a portion of the costs of the construction and equipping of (a) a new power plant facility at Sts. Mary & Elizabeth Hospital, 1850 Bluegrass Avenue, Louisville, Kentucky (the "Power Plant Project"), (b) renovations and equipping of (1) the main Jewish Hospital & St. Mary's HealthCare medical campus, 200 Abraham Flexner Way, Louisville, Kentucky, (2) Frazier Rehab Institute, 220 Abraham Flexner Way, Louisville, Kentucky, (3) Sts. Mary & Elizabeth Hospital, 1850 Bluegrass Avenue, Louisville, Kentucky, (4) Our Lady of Peace, 2020 Newburg Road, Louisville, Kentucky, and (5) Jewish Hospital Medical Center Southwest, 9700 Stonestreet Road, Louisville, Kentucky, [ii] the reimbursement for past capital expenditures at any or all of the facilities described in (a) and (b) (all of the improvements described above, the "Improvements Project"); [iii] the current refunding of the outstanding (a) County of Jefferson, Kentucky, Health Facilities Revenue Bonds, Series 2002 (Jewish Hospital HealthCare Services, Inc. Project), dated as of July 1, 2002 (the "Series 2002 Bonds") and (b) Louisville/Jefferson County Metro Government Health Facilities Revenue Bonds, Series 2004 (Jewish Hospital HealthCare Services, Inc. Project), dated as of June 1, 2004 (the "Series 2004 Bonds"), [iv] the payment of certain costs in connection with the termination or modification of interest rate agreements related to the Series 2002 Bonds and the Series 2004 Bonds (the "Refunding Project") and [v] the payment of certain costs of issuance (all of the foregoing, collectively, the "Project"); and

WHEREAS, the total amount of industrial building revenue bonds necessary to be issued to finance the Project will not exceed \$380,000,000 in total; and

WHEREAS, the Corporation has requested of the Issuer that the sale of such bonds be made privately upon a negotiated basis to UBS Securities LLC and/or other underwriters (the "Underwriter"), for underwriting to the public; and

WHEREAS, in order to accomplish the public purposes of promoting the economic development of the Commonwealth, relieving conditions of unemployment, and encouraging the increase of industry therein, the Issuer considers it necessary and proper to [1] authorize the issuance of its Health Facilities Revenue Bonds, in one or more series each bearing the designation "Series 2008" (Jewish Hospital & St. Mary's HealthCare, Inc. Project) (the "Bonds") and the loan of the proceeds thereof to the Corporation to finance the costs of the Project, [2] authorize the execution and delivery of the Bond Trust Indenture (hereinafter defined), the Loan

Agreement (hereinafter defined), other related bond documents, and the sale of the Bonds as hereinafter provided, and [3] take other related action; and

WHEREAS, the Act authorizes the governing body of an issuer to delegate to an official thereof or to establish by ordinance or resolution the method or methods for determining the initial interest rate or rates, final principal amounts and actual terms and maturities of any bonds issued pursuant to the Act, subject to certain limitations; and

WHEREAS, because of dynamic conditions existing in the market in which the Bonds will be sold it is not feasible to establish the initial interest rate or rates, final principal amounts and actual terms and maturities of the Bonds upon passage of this ordinance; and

WHEREAS, the Legislative Council (the "Legislative Council") of the Issuer deems it advisable to enact this ordinance and to delegate the authority to an official of the Issuer to approve the initial interest rate or rates, final principal amounts and actual terms and maturities of the Bonds in accordance with the methods, procedures and guidelines set forth in this ordinance; and

WHEREAS, prior to the adoption of this ordinance and following published notice, the Legislative Council conducted a public hearing affording an opportunity for members of the public to express their views regarding the Project and the Bonds.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

Section 1. Public Purposes. The Legislative Council hereby finds and declares that the issuance of the Bonds and the loan of the proceeds thereof to the Corporation to finance the costs of the Project, as herein provided, will further the public purposes of the Act by promoting the economic development of the Commonwealth, relieving conditions of unemployment and encouraging the increase of industry therein.

Section 2. Authorization of the Bonds and the Project. For the purposes set forth in the preamble hereto:

A. The Bonds shall be issued in the aggregate principal amount of not to exceed \$380,000,000, in such forms and denominations, shall be numbered, dated and payable as set forth in the Bond Trust Indenture. The Bonds shall mature as provided in the Bond Trust Indenture, and have such terms, bear such interest, and be subject to mandatory and optional redemption as provided in the Bond Trust Indenture. This Issuer hereby fixes and establishes the interest rate on the Bonds in the manner and pursuant to the provisions of the Bond Trust Indenture. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of its Mayor and the Clerk of the Issuer. In case any officer whose signature or a facsimile thereof shall appear on the Bonds shall cease to be such officer before the issuance or delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if the officer had remained in office until after that time.

The form of the Bonds submitted to this meeting, subject to appropriate insertions and revisions in order to comply with the provisions of the Bond Trust Indenture, is hereby approved, and when the same shall be executed on behalf of the Issuer by the appropriate officers thereof in the manner contemplated hereby and by the Bond Trust Indenture, shall represent the approved form of Bonds of the Issuer.

B. The Issuer hereby approves the loan of the proceeds of the Bonds to the Corporation to finance the costs of the Project, as provided in the Loan Agreement hereinafter identified.

C. The Legislative Council, as the "applicable elected representative" of the Issuer for purposes of Section 147(f) of the Internal Revenue Code, hereby approves the issuance of the Bonds in the maximum principal amount of not to exceed \$380,000,000, the proceeds of which will be loaned to the Company and used to finance the Project, as described and defined hereinabove.

Section 3. **THE BONDS ARE NOT A DEBT OF THE ISSUER. THE BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES, RECEIPTS, AND OTHER RESOURCES PLEDGED UNDER THE INDENTURE. THE BONDS DO NOT CONSTITUTE, WITHIN THE MEANING OF ANY STATUTORY OR CONSTITUTIONAL PROVISION, AN INDEBTEDNESS, AN OBLIGATION, OR A LOAN OF THE CREDIT OF THE ISSUER, THE COMMONWEALTH, OR ANY OTHER MUNICIPALITY, COUNTY, OR OTHER MUNICIPAL OR POLITICAL CORPORATION OR SUBDIVISION OF THE COMMONWEALTH. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE ISSUER, THE COMMONWEALTH, OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF IS PLEDGED OR COMMITTED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE BONDS DO NOT CREATE A MORAL OBLIGATION ON THE PART OF ANY OF THOSE GOVERNMENTAL ENTITIES WITH RESPECT TO PAYMENT OF THE BONDS.**

Section 4. Authorization of Bond Trust Indenture. The Mayor and the Metro Council Clerk are hereby authorized and directed to execute and deliver on behalf of the Issuer a Bond Trust Indenture (the "Bond Trust Indenture") between the Issuer and The Bank of New York Trust Company, N.A. as Bond Trustee (the "Bond Trustee") substantially in the form attached hereto as Exhibit A with such changes as the Mayor shall approve, the execution thereof to constitute conclusive evidence of such approval.

Section 5. Authorization of Form of Bonds. The Mayor and the Metro Council Clerk are hereby authorized and directed to execute and deliver on behalf of the Issuer specimen bonds (the "Series 2008 Bonds") substantially in the form attached hereto as Exhibit B with such changes as the Mayor shall approve, the execution thereof to constitute conclusive evidence of such approval.

Section 6. Authorization of Loan Agreement. The Mayor and the Metro Council Clerk are hereby authorized and directed to execute, acknowledge, and deliver on behalf of the Issuer a loan agreement (the "Loan Agreement") between the Issuer and the Corporation,

substantially in the form attached hereto as Exhibit C with such changes as the Mayor shall approve, the execution thereof to constitute conclusive evidence of such approval.

Section 7. Authorization of Bond Purchase Agreement. The Mayor is hereby authorized and directed to execute and deliver on behalf of the Issuer a bond purchase agreement (the "Bond Purchase Agreement") between the Issuer and the Underwriter as representative acting for and on behalf of itself and other underwriters, in substantially the form attached hereto as Exhibit D with such changes as the Mayor shall approve, the execution thereof to constitute conclusive evidence of such approval, providing for the sale of the Bonds upon a negotiated basis at a price and on other terms approved by the Corporation and the Underwriter as may be referred to in the Bond Purchase Agreement. It is hereby determined that the price for and the terms of the Bonds, and the sale thereof, all as provided in the aforesaid documents, are in the best interests of the Issuer and consistent with all legal requirements.

Section 8. Authorization of Tax Exemption Agreement. The Mayor and the Metro Council Clerk are hereby authorized and directed to execute, acknowledge, and deliver on behalf of the Issuer a Tax Exemption Agreement (the "Tax Exemption Agreement") among the Issuer, the Corporation and the Bond Trustee, substantially in the form attached hereto as Exhibit E, with such changes as the Mayor shall approve, the execution thereof to constitute conclusive evidence of such approval.

Section 9. Authorization of Escrow Agreement(s). The Mayor and the Metro Council Clerk are hereby authorized and directed to execute, acknowledge, and deliver on behalf of the Issuer one or more Escrow Agreements with respect to the bonds being refunded (the "Escrow Agreements") among the Issuer, the Corporation and the Bond Trustee, substantially in the form attached hereto as Exhibit F, with such changes as the Mayor shall approve, the execution thereof to constitute conclusive evidence of such approval.

Section 10. Authorization with Respect to Official Statement and Preliminary Official Statement. The preparation and distribution of a Preliminary Official Statement relating to the Bonds, substantially in the form attached hereto as Exhibit G with such changes as the Mayor shall approve, the execution thereof to constitute conclusive evidence of such approval, is hereby authorized and approved. The preparation and distribution of an Official Statement relating to the Bonds in substantially the form approved by the Mayor and the County Attorney is hereby authorized and approved. The Mayor is hereby authorized and directed to execute such Official Statement on behalf of the Issuer, the execution thereof to constitute conclusive evidence of approval of the form thereof. The certification by the Mayor on behalf of the Issuer of the Preliminary Official Statement as the official statement which the issuer deems final for purposes of Rule 15c2-12(b)(1) of the Securities and Exchange Commission is hereby ratified and approved.

The Issuer has not confirmed, and assumes no responsibility for, the accuracy, sufficiency or fairness of any statements in the Preliminary Official Statement or the Official Statement or any amendments thereof or supplements thereto, or in any reports, financial information, offering or disclosure documents or other information relating to the Preliminary Official Statement, the Official Statement, the Underwriter, the Project or the Corporation, or the

history, businesses, properties, organization, management, financial condition, market area or any other matter relating to the Corporation or contained otherwise in the Preliminary Official Statement or the Official Statement.

Section 11. Authorization of Official to Approve Interest Rate. The Mayor or the Metro Council Clerk (each an "Authorized Officer") is hereby authorized to approve on behalf of the Legislative Council and the Issuer the interest rate or rates to be borne by the Bonds, as recommended by the Corporation and the Underwriter; provided, however, that such interest rate or rates shall not exceed fifteen percent (15%) per annum.

Section 12. Authorization of Official to Approve Other Terms of Bonds. An Authorized Officer is hereby authorized to approve on behalf of the Legislative Council and the Issuer the final principal amounts and actual terms and maturity schedule for the Bonds, provided that [i] the principal amount of the Bonds shall not exceed \$380,000,000, [ii] the final maturity of any of the Bonds shall not extend beyond 30 years from the date of issuance of the Bonds and [iii] the interest rate or rates, final principal amounts and actual terms and maturity schedule for the Bonds is approved by the Corporation and the Underwriter.

Section 13. Further Acts and Deeds. The Mayor, Metro Council Clerk and other appropriate officers, employees or agents of the Issuer are hereby authorized and directed to execute, acknowledge and deliver on behalf of the Issuer any and all papers, instruments, certificates, affidavits and other documents, including any agreements relating to arbitrage, arbitrage rebate and continuing disclosure deemed necessary by bond counsel, and to do and cause to be done any and all acts and things necessary or proper for entering into and effecting this ordinance, the Bond Purchase Agreement, the Bond Trust Indenture, the Loan Agreement, the Tax Exemption Agreement, the Escrow Agreement(s), the Official Statement and the Bonds, provided that neither the Issuer nor any of its commissioners, officers, employees or agents incur any liability thereby.

Section 14. No Personal Liability. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Ordinance, or in any Bond, or in the Bond Trust Indenture, Loan Agreement, the Tax Exemption Agreement, the Escrow Agreement(s), or the Bond Purchase Agreement, or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, shall be had against any officer as such, past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to any holder of any Bond, or otherwise, of any sum that may be due and unpaid by the Issuer upon any of the Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, as such, to respond by reason of any act or omission on his or her part, or otherwise, for, directly or indirectly, the payment for or to the Issuer or any receiver thereof, or for or to the owner or any holder of any Bond, or otherwise, of any sum that may remain due and unpaid upon any Bond, shall be deemed to be expressly waived and released as a condition of and consideration for the execution and delivery of the Bond Trust Indenture, Loan Agreement, the Tax Exemption Agreement, the Escrow Agreement(s) and the Bond Purchase Agreement and the issuance of the Bonds.

Section 15. Open Meetings Law. This Issuer hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Issuer, and that all deliberations of this Issuer and of its committees, if any, which resulted in formal action, were in meetings open to the public, in full compliance with applicable legal requirements.

Section 16. Severability. The provisions of this ordinance are severable, and if any section, phrase or provision hereof shall for any reason be declared invalid or unenforceable, such declaration shall not affect the validity of the remainder of this ordinance.

Section 17. Prior Conflicting Actions Superseded. To the extent that any ordinance, resolution, order or part thereof is in conflict with the provisions of this ordinance, the provisions of this ordinance shall prevail and be given effect.

Section 18. Effective Date. This ordinance shall be in full force and effect from and after its enactment and publication as provided by law.

This Ordinance was given first reading at a duly convened meeting of the Legislative Council of the Louisville/Jefferson County Metro Government, held on the ___th day of _____, 2008, and given second reading approval and enacted at a duly convened meeting of the Legislative Council held on the ___th day of _____, 2008.

Jerry E. Abramson
Mayor

Jim King
President of the Council

Approved:

Kathleen J. Herron, Clerk

Approval Date

APPROVED AS TO FORM AND LEGALITY

Irv Maze
Jefferson County Attorney

By: James T. Carey
Assistant County Attorney

CERTIFICATE OF THE CLERK

I, Kathleen J. Herron, Metro Council Clerk, hereby certify that I am the duly qualified and acting Metro Council Clerk of the Louisville/Jefferson County Metro Government, that the foregoing Ordinance is a true copy of said Ordinance duly enacted by the Metro Council of said Metro Government, signed by the Mayor and President of the Council of said Metro Government, and attested under seal by me as Metro Council Clerk of the Metro Government, at a properly convened term and session of said Metro Council held on ____ __, 2008 as shown by the official records in my custody and under my control; that attached hereto are true copies of the documents approved therein, and that copies of such documents have also been duly filed and recorded in the official records of the Metro Government.

IN WITNESS WHEREOF, I have hereunder set my hand as Metro Council Clerk of the Louisville/Jefferson County Metro Government and the seal of the Metro Government this ____ day of ____, 2008.

Kathleen J. Herron, Clerk

[SEAL]

EXHIBIT A

BOND TRUST INDENTURE

EXHIBIT B

SPECIMEN BOND

EXHIBIT C

LOAN AGREEMENT

EXHIBIT D

BOND PURCHASE AGREEMENT

EXHIBIT E

TAX EXEMPTION AGREEMENT

EXHIBIT F

FORM OF ESCROW AGREEMENT

EXHIBIT G

PRELIMINARY OFFICIAL STATEMENT

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